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BOOK REVIEWS

CRIMINAL JUSTICE IN CLEVELAND. Reports of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, Ohio. By Roscoe Pound and Felix Frankfurter (editors and directors). Cleveland: The Cleveland Foundation. 1922. Pp. xxvii, 729.

According to a report submitted to the American Bar Association, the United States is the most lawless nation in the world. Since 1910 there has been a steady increase in homicides, burglaries and robberies throughout the country. The Cleveland survey began during a somewhat sensational agitation regarding a "crime wave" in Cleveland.

It is recognized in most of our large cities that there is something wrong in the administration of justice, in the work of the police, in the work of prosecutors, in the work of courts, in the work of jails and prisons. This would seem to be the first attempt at a comprehensive study and diagnosis of the trouble with the actual administration of criminal law in an American city.

The survey was directed by Dean Roscoe Pound and Professor Felix Frankfurter of the Harvard Law School. It is divided into eight parts, as follows:

- Part I. Police Administration—By Raymond B. Fosdick.
 - Part II. Prosecution—By Alfred Bettman, assisted by Howard F. Burns.
 - Part III. The Criminal Courts—By Reginald Herbert Smith and Herbert B. Ehrmann.
 - Part IV. Correctional and Penal Treatment—By Burdette G. Lewis.
 - Part V. Medical Science and Criminal Justice—By Dr. Herman M. Adler.
 - Part VI. Legal Education in Cleveland—By Albert M. Kales.
 - Part VII. Newspapers and Criminal Justice—By M. K. Wisehart.
 - Part VIII—Criminal Justice and the American City—By Roscoe Pound.
- The survey is supplied with numerous statistical tables, diagrams and illustrations. The statistical method is largely used to indicate tendencies, and the diagrams show the results in graphic form.

The only hope for progress in the solution of complicated problems of social engineering, such as those presented in dealing with crime and criminals, lies in searching and scientific study of the actual facts. These facts must be brought home to the mind and conscience of the people. This the Cleveland Foundation has sought to accomplish through the labors of skilled non-resident investigators—investigators whose aims are impersonal and who are indifferent to quick results—aided by a local advisory committee.

The breakdown in the machinery of law enforcement is probably no worse in Cleveland than in most large American cities; the problems dealt

with are general ones; and the reader may apply the lessons of the Cleveland survey to other cities as well.

It is significant that the first study is that by Mr. Raymond B. Fosdick with reference to police administration. There may well be divergent views as to the efficacy of punishment in the discouragement of crime, but there can be no question of the necessity of an efficient police system. Prevention is better than punishment; arrest is essential to punishment. If anything will cut down the large number of robberies, burglaries and other violent crimes in which our rate so far exceeds that of European cities, it is a police machinery better adapted to modern demands.

Mr. Fosdick points out in detail many serious shortcomings. For example, we have no trained and intelligent leadership, such as European police forces have long enjoyed. "Transient administration is fatal to success in any complex technical enterprise." It is recommended that responsibility for police control be concentrated in a single directing head, appointed by the mayor, and chosen from outside the force without regard to politics or to residence.

Other criticisms of the police relate to the selection and training of the personnel of the force, the system of promotions, of discipline, of methods of patrol, and the lack of equipment.

The absurdly poor work of the detective bureau, due to the poor quality of detectives, is illustrated. The condition is so discouraging that the critic confesses that he "approaches the subject of recommendations for the detective bureau almost in despair." This is, perhaps, the weakest spot in all the police departments of the country, "chiefly for the reason that the choice of detectives is limited to the men who are recruited and trained as patrolmen" (page 72).

The police court or criminal branch of the municipal court, together with the officials who conduct its work, constitute the most important of all the tribunals and officials engaged in the administration of criminal justice. It is the municipal prosecutor who has the function of deciding in most cases whether any criminal prosecution shall be brought. He is the sifter of the material to go into the mill. He has the most intimate contact with the great bulk of the population. As a deterrent of crime, the municipal court is next in importance to the police force.

The account of the work of the municipal court and the municipal prosecutor's office is a scorching one. It is a helter-skelter, hurly-burly that prevails in the court-room, without order or decorum. The trials are ground out without attempt on the part of anybody, judge or prosecutor, to bring out all the facts in any case; and seldom is any witness permitted to complete his story. The average time devoted to a case is two and one-fourth to two and one-half minutes, which represents a fairly habitual and normal rate. All sorts of cases are indiscriminately lumped together, including state felonies, state misdemeanors, and ordinance violations.

The proceedings of the municipal court are carried on in a very careless manner by judge and prosecutor, amid a din of confusion and largely

by means of private whisperings to the judge. The prosecutor often plays a negative part and is usually the least important or influential person in the court-room. The bench is subjected to the influence of machine politics, labor organizations, racial groups, and the necessity of self-advertisement. The door to favoritism, corruption, prejudice, luck, and carelessness is wide open.

In the municipal prosecutor's office there is no office system nor organization whatsoever. Each assistant pursues his own policy, or lack of policy, and his own methods. There is dangerous laxity in the care of affidavits. The municipal prosecutor's office has no records or files. It is the general opinion that the men in the prosecutor's office are chosen for political reasons. Private practice cuts into the time, energy, and attention which proper performance of the work demands.

The present method of administration of criminal justice is built upon two court systems, two prosecutors' offices, and a grand jury. The county prosecutor's office is in somewhat better condition than that of the municipal prosecutor; but the trial prosecutor does not receive, either at or before the trial, a comprehensive brief of the facts setting forth the testimony which may be expected of the witnesses. The rough notes scribbled by the prosecutor in the grand jury room furnish all that the trial prosecutor learns about most cases before jumping into the trial of them.

It is recommended that all state cases, both misdemeanors and felonies, be placed in the exclusive charge of the county prosecutor from the beginning, including the presentation of the cases to the municipal or examining court, so that the county prosecutor may keep in touch with the preparation of felony cases from the beginning. It is also recommended that the grand jury be dispensed with on the ground that one preliminary examination is enough.

As Dean Pound says: "No feature of our administration of criminal justice calls for thoroughgoing study so urgently as the public prosecutor. * * * the wide power of local prosecutors, the lack of control over them, and the extent to which they may determine the whole course of law enforcement, without leaving a tangible record of what they have done and what they have left undone, are beginning to attract attention."

The mortality of criminal cases from "no papers" or "no papering," nolle, acceptance of pleas of lesser offenses, suspension of sentences, mitigation of sentences, probation and paroling in the dark is unduly high.

It is impossible to comment in detail on the different portions of this valuable and interesting report. Among the general conclusions drawn by Dean Pound from the survey are the following:

"So far as these things can be insured, we must look to unification of police administration, with undivided authority and responsibility under a director with permanent tenure, dependent only on results; to unification and responsibility of the prosecuting agencies, with permanent tenure and undivided authority; to unification of the courts, with organization of judicial business under a responsible administrative head; to the incorporation of the

bar, with provision for responsible disciplinary agencies; to adequate provision for legal education, and above all, to the taking of the bench out of politics and restoring the common-law independence of the judiciary, preferably by returning to the system of judges appointed for life or good behavior, or, at least, by some of the alternative plans proposed in the report on courts."

As Dean Pound says, it is to be hoped that the present generation of American lawyers will devote their energy and ingenuity to making over the institutions of rural America for the predominantly urban America of today.

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THE CONTROL OF AMERICAN FOREIGN RELATIONS. By Quincy Wright. New York: The Macmillan Co. 1922. Pp. xxvi, 412.

THE CONDUCT OF AMERICAN FOREIGN RELATION. By John Mabry Mathews. New York: The Century Co. 1922. Pp. xi, 353.

The publication in the same year of these two books on the vexed problem of handling American foreign relations is an event of importance. With the outbreak of the European War the foreign relations of the United States entered on a new era. From that day to this it has been necessary, to a degree not formerly experienced, for government and citizen to pay heed to affairs other than domestic. The consequences of our foreign relations are felt by all Americans, and the need for intelligent handling of them has been forced upon the public consciousness. An evidence of this was the selection by the American Philosophical Society, in 1921, of the following subject for the Henry M. Phillips Prize Essay competition: "The Control of the Foreign Relations of the United States: The relative rights, duties and responsibilities of the President, of the Senate and the House, and of the Judiciary in theory and in practice." Twelve essays were submitted, the prize being awarded to Quincy Wright, Professor of International Law in the University of Minnesota; and his present book is an expansion and revision of this essay up to January, 1922. The two books by Professors Wright and Mathews, the latter Associate Professor of Political Science in the University of Illinois, deal with the same subject, but do not cover the same ground. In many respects they complement each other, and repay study together. Professor Wright has given himself more scope in interpreting the subject, assuming as already known much of the material which Professor Mathews has carefully digested, summarized and classified. The latter book may well be used as a reference work in connection with the former.

Both writers have labored under difficulties inherent in the subject. Even to find suitable titles for these books was difficult. There is always more than one side to foreign relations, so that it may be doubted whether they may be either controlled or conducted. They may be only dealt with,